

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

FILED 12/23/09 DEC 23 12:00PM CDT UPR

GERALD WILLIAM LILLARD,

Plaintiff,

No. CV 08-6309-PK

AMENDED OPINION AND ORDER

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MOSMAN, J.,

On November 24, 2009, Magistrate Judge Papak issued Findings and Recommendation ("F&R") (#18) in the above-captioned case recommending that I REVERSE AND REMAND the Commissioner's decision for further proceedings. No objection to the F&R was filed.

DISCUSSION

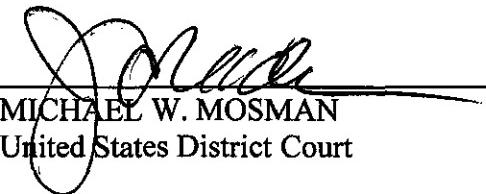
The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474

U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation, and I ADOPT the F&R (#18) as my own opinion.

IT IS SO ORDERED.

DATED this 23 day of December, 2009.



MICHAEL W. MOSMAN
United States District Court